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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/037,382 | 01/04/2002 | Joseph Claude Caci | 12078-129 | 6806 |

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PERKINS, SMITH & COHEN LLP
ONE BEACON STREET
30TH FLOOR
BOSTON, MA 02108

EXAMINER

KYLE, MICHAEL J

ART UNIT PAPER NUMBER

3676

DATE MAILED: 04/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/037,382

Applicant(s)

CACI ET AL.

Examiner

Michael J Kyle

Art Unit

3676

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 March 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-19,21-25 and 28.
Claim(s) withdrawn from consideration: 26,27 and 29.

AFFIDAVIT OR OTHER EVIDENCE

8. ☒ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☒ Other: Regarding the Affidavit or Other Evidence noted in Box 8, examiner asserts that the declaration filed after the final rejection, should have been filed in applicant's response of October 14, 2004, to the non-final Office action mailed on June 9, 2004. Applicant's response of October 14, 2004, was the first time applicant argued that "secure memory" is a term of art.

Continuation of 3. NOTE: Claim 1, among others, has been amended to recite "a secure memory", rather than "means for providing a securing memory". Because "a secure memory" is now positively recited, the scope of the claim has been narrowed, therefore requiring further search and consideration. Additionally, claim 17 has added the limitation that a smart card reader is "integrated with said purchasing aid logistics appliance". This also would require further search and consideration. Furthermore, claim 23 has been amended to recite that the master control is read "from the bar coded advertisement", which also requires further search and consideration.

Continuation of 11. does NOT place the application in condition for allowance because: The amendments to the claims would require further search and consideration. Examiner notes applicant's request on page 24 of the response, for a full citation of the Treyz reference where a claimed feature is taught, as a typographical error in the Final Office Action omitted the column number of the citation. Examiner refers to Treyz, column 10, lines 30-32, to cite the claimed feature. Additionally, examiner notes the argument of page 26 of the response that claim 18 does not recite a bar coded advertisement, as the Office Action suggested. Examiner notes this is a typographical error, and all limitations of the claim were addressed in the Final Office Action.

Examiner further notes the Information Disclosure Statement (IDS) filed on March 28, 2005. Applicant states the IDS is being filed under rule 1.97(b). The IDS has not been considered because it does not meet the requirements of 1.97(b), as it is being filed after the final rejection. The IDS must meet the requirements of 1.97(d) at this stage.